

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, : 20-CR-00067(ERK)
:
:
-against- : United States Courthouse
:
:
March 12, 2020
2:00 p.m.
SERGEY DENISOFF, :
Defendant. :
- - - - - X

TRANSCRIPT OF CRIMINAL CAUSE FOR PLEADING
BEFORE THE HONORABLE ERIC R. KOMITEE
UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

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1 (In open court.)

2 THE COURT: Good afternoon, everybody. Have a seat,
3 please.

4 THE COURTROOM DEPUTY: Criminal cause for pleading.
5 USA versus Sergey Denisoff, docket number 20-CR-67.

6 Would you all please state your appearances for the
7 record starting with the Government.

8 MR. KEILTY: Good afternoon, Your Honor.

9 Mike Keilty and Alexander Mindlin for the
10 Government.

11 THE COURT: Good afternoon.

12 MR. GOLDSOBEL: Good afternoon, Your Honor.

13 Steve Goldsobel on behalf of Mr. Denisoff who is
14 present.

15 THE COURT: Good afternoon.

16 And good afternoon.

17 Okay. Let me just log in here.

18 So, Mr. Goldsobel, I understand that we are here
19 because your client wishes to waive indictment and enter a
20 plea of guilty to an information.

21 MR. GOLDSOBEL: That's correct, Your Honor.

22 THE COURT: Okay.

23 Mr. Denisoff, your attorney advises me that you wish
24 to waive indictment and plead guilty to the information, which
25 is a different kind of charging document in which you are

1 charged in this matter pursuant to an agreement with the
2 Government.

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Is that correct?

5 THE DEFENDANT: That's correct.

6 THE COURT: So this is a serious decision, and I
7 must be certain that you make it fully understanding your
8 rights and the consequences of your plea. I'm going to
9 explain to you the rights that you will be giving up by
10 waiving indictment and pleading guilty; and, in addition,
11 before I accept your guilty plea, there are a number of
12 questions I must ask you to establish that this is a valid
13 guilty plea.

14 You guys can be seated.

15 If you don't understand any of my questions today,
16 please say so, and I will reword the question. It's important
17 that you understand everything that happens here today.

18 If you want to consult with your attorney at any
19 time for any reason, please let me know that, and I will give
20 you as much time as you need to do so.

21 I need you to answer the questions today under oath,
22 so would the clerk, please, swear the defendant.

23 THE COURTROOM DEPUTY: Would you rise? Raise your
24 right hand.

25 (Defendant sworn.)

1 THE DEFENDANT: I do.

2 THE COURTROOM DEPUTY: You may be seated.

3 THE COURT: Okay. All right. So do you understand
4 that you are now under oath and that if you answer any of my
5 questions falsely, your answers could later be used against
6 you in another prosecution for perjury or making a false
7 statement?

8 THE DEFENDANT: I do.

9 THE COURT: What is your full name?

10 THE DEFENDANT: Sergey Denisoff.

11 THE COURT: Do you want to spell that for the court
12 reporter?

13 THE DEFENDANT: S-E-R-G-E-Y, last name, D, as in
14 "dog," E-N-I-S-O, double F, as in "Frank."

15 THE COURT: Okay. How old are you?

16 THE DEFENDANT: Thirty-three.

17 THE COURT: Okay. How far did you get in school?

18 THE DEFENDANT: Master's degree, sir.

19 THE COURT: In what?

20 THE DEFENDANT: Business administration.

21 THE COURT: Okay. I can tell just from the
22 interactions we've had so far that you are clearly able to
23 speak and understand English; right?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: And you've been able to communicate --

1 or have you, I should say, been able to communicate with your
2 attorney effectively?

3 THE DEFENDANT: Yes, Your Honor.

4 THE COURT: Mr. Goldsobel, have you been able to
5 communicate effectively with your client?

6 MR. GOLDSOBEL: Yes, Your Honor.

7 THE COURT: These are standard questions. As you
8 can see, I'm making sure I don't miss anything, so I'm reading
9 off a pretty formal script here. I have to ask you some
10 questions today that are, in some cases, personal questions,
11 but the point of them is to establish and make a record of the
12 fact that you understand clearly what's happening here today;
13 okay?

14 So have you ever been treated or hospitalized for
15 mental illness?

16 THE DEFENDANT: No, sir.

17 THE COURT: Are you currently or have you recently
18 been under the care of a doctor or psychiatrist for any
19 reason?

20 THE DEFENDANT: No.

21 THE COURT: Have you been treated or hospitalized
22 for addiction, including drug or alcohol addiction?

23 THE DEFENDANT: No.

24 THE COURT: Have you taken any drugs, medicine,
25 pills, or alcoholic beverages in the last two days?

1 THE DEFENDANT: No, sir.

2 THE COURT: Is there any medication that you believe
3 you should be taking that you are not taking?

4 THE DEFENDANT: No.

5 THE COURT: Okay. Is your mind clear as you sit
6 here today?

7 THE DEFENDANT: Yes, it is.

8 THE COURT: And do you understand what's happening?

9 THE DEFENDANT: I do.

10 THE COURT: Okay. Mr. Goldsobel, have you discussed
11 this matter with your client?

12 MR. GOLDSOBEL: I have.

13 THE COURT: You believe he understands the rights
14 that he would be waiving by pleading guilty?

15 MR. GOLDSOBEL: Yes, Your Honor.

16 THE COURT: And is he capable of understanding the
17 nature of these proceedings?

18 MR. GOLDSOBEL: He is.

19 THE COURT: Do you have any doubt as to
20 Mr. Denisoff's competence to plead at this time?

21 MR. GOLDSOBEL: I don't.

22 THE COURT: And have you advised him of the maximum
23 and minimum sentence and fine that can imposed in this case.

24 MR. GOLDSOBEL: Yes, Your Honor.

25 THE COURT: Have you discussed with him the effect

1 of the sentencing guidelines?

2 MR. GOLDSOBEL: I have.

3 THE COURT: Okay.

4 Mr. Denisoff, have you been given a copy of the
5 information -- that's the charging document -- pending against
6 you?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: And have you fully discussed both the
9 wire fraud conspiracy charge and the forfeiture allegations,
10 as well as the case in general with your attorney?

11 THE DEFENDANT: Yes.

12 THE COURT: In paragraph 1 of the information,
13 you're charged with conspiring to commit wire fraud in
14 violation of 18 U.S. Code, Section 1349.

15 The elements of this crime -- when I say "the
16 elements of this crime," I mean the things the Government
17 would have to prove beyond a reasonable doubt if you were to
18 go to trial -- the elements in this case are, number one, that
19 a conspiracy to commit wire fraud existed; and, number two,
20 that you knowingly and intentionally became a member of that
21 conspiracy.

22 And when I say a "conspiracy," what that means is
23 simply a combination or agreement of two or more persons to
24 join together to accomplish some unlawful purpose. When I say
25 a "conspiracy to commit wire fraud," that means a conspiracy

1 to orchestrate a scheme to defraud to get money or property
2 that was furthered by the use of the interstate wires.

3 Do you understand all that?

4 THE DEFENDANT: I do.

5 THE COURT: In the forfeiture allegation, the
6 Government states that it intends to seek forfeiture of
7 property that you derived -- you got -- from your alleged
8 participation in the conspiracy to commit wire fraud.
9 Forfeitable property would be any property -- real or
10 personal -- that constitutes or is derived from proceeds that
11 you obtained directly or indirectly as a result of your
12 participation in the alleged conspiracy to commit wire fraud.

13 The forfeiture allegations also state that the
14 Government intends to seek forfeiture of substitute property
15 up to the amount -- the same amount in value of the property I
16 just described; and to require forfeiture of substitute
17 property, the Government would have to show that it is
18 unable -- for some reason -- to locate, identify, or exercise
19 jurisdiction over the actual proceeds that you derived from
20 the conspiracy, and that the substitute property is equivalent
21 in value to those proceeds.

22 Do you understand that?

23 THE DEFENDANT: I do.

24 THE COURT: Have you had sufficient time to discuss
25 with your attorney or not whether to plead guilty in this

1 case?

2 THE DEFENDANT: I've had sufficient time.

3 THE COURT: And are you fully satisfied with the
4 counsel, representation, and advice given to you in this case
5 by your attorney?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And so I'm now going to explain to you
8 certain rights that you will be giving up if you waive the
9 indictment.

10 Instead of the charges in this case being brought by
11 an indictment, the charges here are being brought against you
12 by what is called an information from the US Attorney. The
13 difference is, you have a constitutional right, under the US
14 Constitution, not to be charged with a serious crime like you
15 are here today unless a grand jury returns an indictment
16 against you, but you can waive that right only to be charged
17 by indictment by a grand jury and instead consent to being
18 charged by an information that's simply filed by the US
19 Attorney.

20 If you didn't waive indictment, the Government would
21 have to present the case against you to the grand jury and ask
22 it to indict you in order for you to be charged. A grand jury
23 is composed of at least 16, and not more than 23, persons; and
24 at least 12 grand jurors out of that number must find that
25 there is probable cause to believe that you committed the

1 crime with which you are charged before you might be indicted.
2 The grand jury might or might not indict you; but if you waive
3 indictment by the grand jury, the case will proceed against
4 you on the US Attorney's information just as though you had
5 been indicted.

6 Mr. Denisoff, do you understand your right to
7 indictment by a grand jury?

8 THE DEFENDANT: I do.

9 THE COURT: And are you willing to waive that right?

10 THE DEFENDANT: Yes, sir.

11 THE COURT: Have you discussed this decision with
12 your attorney?

13 THE DEFENDANT: I have.

14 THE COURT: Have any threats or promises been made
15 to induce you to waive your right to indictment?

16 THE DEFENDANT: No.

17 THE COURT: Are you waiving your right to indictment
18 voluntarily and of your own free will?

19 THE DEFENDANT: Yes, I am.

20 THE COURT: And, Mr. Goldsobel, are you aware of any
21 reason that the defendant should not waive indictment?

22 MR. GOLDSOBEL: I'm not.

23 THE COURT: Okay. So, Mr. Denisoff, I'm going to
24 ask you to sign the waiver form in court.

25 THE COURTROOM DEPUTY: It's on here. I believe he

1 signed it.

2 THE COURT: All right. So can we mark that?

3 THE COURTROOM DEPUTY: You have to sign it now.

4 So, Mr. Denisoff, I have been presented with a
5 document that's entitled, Waiver of an Indictment.

6 Is this your signature on this document?

7 THE DEFENDANT: Yes, it is.

8 THE COURT: Let me hand that to you.

9 THE COURTROOM DEPUTY: Thank you.

10 THE COURT: The Court finds that the defendant's
11 Waiver of Indictment is knowingly and voluntarily made, and I
12 accept the waiver in this case.

13 Mr. Denisoff, have you reviewed the information?

14 THE DEFENDANT: Yes, I have.

15 THE COURT: Have you had time to discuss it with
16 your attorney?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Would you like me to read the
19 information, or do you waive a reading in court?

20 THE DEFENDANT: I'll waive the reading.

21 THE COURT: Have you had sufficient time to discuss
22 with your attorney whether or not to plead guilty?

23 THE DEFENDANT: Yes, I have.

24 THE COURT: Mr. Goldsobel, I understand that your
25 client wishes to plead guilty to the sole charge in the

1 information pursuant to a plea agreement.

2 And, Mr. Denisoff, your attorney advises me that you
3 wish to plead guilty to the information in which you are
4 charged and that you are doing so pursuant to a plea
5 agreement.

6 Mr. Denisoff, I'm going to now explain certain
7 additional rights that you will be giving up if you enter a
8 plea of guilty.

9 So, first, you have a right to plead not guilty; no
10 one can be forced to plead guilty.

11 Do you understand that?

12 THE DEFENDANT: I do.

13 THE COURT: If you plead not guilty, you would have
14 the right under the Constitution and laws of the United States
15 to a speedy and public trial by a jury.

16 Do you understand?

17 THE DEFENDANT: I do.

18 THE COURT: At trial, you would be presumed to be
19 innocent, and the Government would have to prove you guilty
20 beyond a reasonable doubt.

21 Do you understand that?

22 THE DEFENDANT: I do, Your Honor.

23 THE COURT: You would have the right to the
24 assistance of counsel to your defense. Mr. Goldsobel would
25 represent you at trial and every other stage of the

1 proceeding.

2 Do you understand?

3 THE DEFENDANT: I do.

4 THE COURT: You would have the right to see and hear
5 all witnesses and have them cross-examined in your defense.

6 Do you understand that?

7 THE DEFENDANT: I do.

8 THE COURT: You would have the right to remain
9 silent; that is, the right not to testify unless you
10 voluntarily chose to do so in your own defense.

11 Do you understand that?

12 THE DEFENDANT: I do.

13 THE COURT: Should you decide not to testify or not
14 to put on any evidence at trial, those facts -- the fact that
15 you chose to remain silent -- could not be used against you
16 because the Government has the burden of proof.

17 Do you understand that?

18 THE DEFENDANT: I do.

19 THE COURT: You would have the right to compel the
20 attendance of witnesses to testify on your behalf.

21 Do you understand that?

22 THE DEFENDANT: I do.

23 THE COURT: And by entering a plea of guilty, and if
24 I accept your plea today, there will be no trial and you will
25 have waived or given up your right to a trial as well as all

1 of the rights associated with a trial that I've just
2 described.

3 Do you understand that?

4 THE DEFENDANT: I do.

5 THE COURT: If you plead, there will be no right to
6 appeal from the judgment of guilt. I will simply enter a
7 judgment of guilty on the basis of your guilty plea, and the
8 Government will be freed of any responsibility to prove your
9 guilt.

10 Do you understand that?

11 THE DEFENDANT: I do.

12 THE COURT: If you plead guilty, I will have to ask
13 you questions about what you did in order to satisfy myself
14 that you are guilty of the charge to which you seek to plead
15 guilty, and you will have to answer my questions -- you will
16 be waiving your Fifth Amendment right to remain silent -- and
17 you will have to answer my questions and acknowledge your
18 guilt; thus you will be giving up your right not to
19 incriminate yourself.

20 Do you understand that?

21 THE DEFENDANT: I do.

22 THE COURT: Mr. Denisoff, do you understand each and
23 every one of the rights I have explained to you?

24 THE DEFENDANT: I do.

25 THE COURT: Are you willing to give up your right to

1 trial and all of those other rights I have just explained?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Okay. I understand you are pleading
4 guilty pursuant to an agreement with the Government, and I've
5 marked as Court Exhibit 1 your agreement with the Government
6 pursuant to which you are pleading guilty.

7 Did you sign it?

8 THE DEFENDANT: I have.

9 THE COURT: And is this your signature on the last
10 page?

11 THE DEFENDANT: Yes, it is.

12 THE COURT: Did you have an opportunity to read and
13 discuss the agreement with your attorney before you signed it?

14 THE DEFENDANT: Yes, I have, Your Honor.

15 THE COURT: Did you have sufficient time to review
16 it with your attorney?

17 THE DEFENDANT: Yes.

18 THE COURT: Did you understand it?

19 THE DEFENDANT: Yes.

20 THE COURT: Mr. Goldsobel, did you have sufficient
21 time to review the plea agreement with your client?

22 MR. GOLDSOBEL: Yes, Your Honor.

23 THE COURT: Do you have any questions about the
24 agreement for the Court, Mr. Denisoff?

25 THE DEFENDANT: I do not.

1 THE COURT: Does the agreement represent your entire
2 understanding with the Government?

3 THE DEFENDANT: Yes, it does.

4 THE COURT: Has anybody made any promise or
5 assurance that is not in the agreement to persuade you to
6 accept this agreement?

7 THE DEFENDANT: No, sir.

8 THE COURT: Has anyone threatened you in any way to
9 persuade you to accept this agreement?

10 THE DEFENDANT: No.

11 THE COURT: Are you pleading guilty of your own free
12 will because you are, in fact, guilty?

13 THE DEFENDANT: Yes, I am.

14 THE COURT: Okay.

15 Mr. Goldsobel, were all formal plea offers from the
16 Government in this case conveyed to Mr. Denisoff?

17 MR. GOLDSOBEL: Yes.

18 THE COURT: Okay. So I've already discussed the
19 charge and the forfeiture allegations against you. I am now
20 going to tell you about some of the possible penalties for
21 this crime.

22 So, first, under the statute that you have been
23 charged, the maximum term of imprisonment for this crime is
24 20 years; there is no mandatory minimum.

25 Do you understand that?

1 THE DEFENDANT: I do.

2 THE COURT: Any term of imprisonment might be
3 followed by a term of supervised release, the maximum
4 supervised release term being three years.

5 Supervised release is important. It refers to the
6 period of time when you will be subject to supervision by the
7 Probation Department after completing any term of
8 imprisonment. You will have to follow rules of supervised
9 release, and if you violate those rules, you can be sent back
10 to prison without a jury trial to serve an additional term of
11 up to two years without any credit for the time you previously
12 served in prison as a result of your sentence and without any
13 credit for the time you spent on post-release supervision.

14 Do you understand that?

15 THE DEFENDANT: I do.

16 THE COURT: You also face a maximum possible fine of
17 \$250,000 or twice the gross pecuniary gain derived from the
18 offense -- and when I say "gross pecuniary gain," I mean the
19 amount of money that the conspirators made in this case -- or
20 twice the gross pecuniary loss to persons other than yourself,
21 whichever is greater.

22 In addition, I must order you to pay a mandatory
23 special assessment of \$100.

24 Can I ask the Government about restitution here?

25 MR. KEILTY: Yes, Your Honor. There are victims in

1 this case, Your Honor. The victims are aware and have been
2 notified. We don't have an amount at this point.

3 THE COURT: Okay. So the Government is saying there
4 are victims in this case; those victims have had monetary
5 losses. That means there will be a restitution order.
6 Restitution is mandatory; it can't be reduced based on your
7 financial circumstances or the fact that the victims have, or
8 may be entitled to have, compensation from other sources.

9 So do you understand that as part of your guilty
10 plea you will be ordered to pay restitution to victims in this
11 case?

12 THE DEFENDANT: I do.

13 THE COURT: Okay. You are also subject to
14 forfeiture based on your guilty plea. Paragraph 6 through 13
15 of the plea agreement indicate that you consent to the
16 forfeiture of \$3,000; is that correct?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: I'm going to ask you some questions
19 about the potential immigration consequences of your guilty
20 plea because sometimes pleading guilty to a crime can have
21 implications for somebody's immigration status.

22 Are you a US citizen?

23 THE DEFENDANT: Yes, I am.

24 THE COURT: Did you become a US citizen through
25 naturalization or by birth?

1 THE DEFENDANT: Naturalization.

2 THE COURT: Okay. If so, if you are a US citizen
3 through naturalization, then as a result of your guilty plea,
4 you may be subject to something called denaturalization and
5 removal if it is found by an immigration court that your
6 naturalization was procured by concealment or
7 misrepresentation of a material fact.

8 I'm not suggesting at all that that's the case here;
9 I'm just telling you how the law works in this area.

10 So this would include circumstances in which an
11 individual procured citizenship status through a fraud.

12 Do you understand what I mean by that?

13 THE DEFENDANT: I do.

14 THE COURT: Okay. But it may also apply when an
15 individual committed an offense that demonstrates a lack of
16 good moral character within five years immediately preceding
17 the date of filing his application for naturalization. Any
18 investigation into potential denaturalization as a result of
19 your guilty plea would be the subject of a separate proceeding
20 not before this Court.

21 Are you, nevertheless, willing to plead guilty
22 despite the possible immigration consequences of doing so?

23 THE DEFENDANT: Yes, Your Honor.

24 THE COURT: Okay.

25 In addition, because the offense to which you are

1 seeking to plead guilty is a felony offense, if I accept your
2 guilty plea, you will adjudged guilty, and such adjudication
3 may deprive you of valuable civil rights; such as, the right
4 to vote, the right to hold public office, the right to serve
5 on a jury, and the right to possess any kind of a firearm.

6 Do you understand that?

7 THE DEFENDANT: I do.

8 THE COURT: Do you understand all of these possible
9 consequences of your plea?

10 THE DEFENDANT: Yes, Your Honor.

11 THE COURT: Okay. I'm going to tell you now about
12 the sentencing guidelines.

13 So as I'm sure your attorney has explained to you,
14 there are guidelines that a federal judge must follow in
15 determining the appropriate sentence in your case. Under the
16 Sentencing Guideline Reform Act of 1984, the United States
17 Sentencing Commission has issued guidelines for judges to
18 follow in determining sentence in a criminal case. These
19 guidelines are advisory, and I will consider them, along with
20 the particular facts and circumstances of your case, and all
21 of the sentencing factors set forth in a federal statute;
22 namely, 18 U.S. Code, Section 3553(a), in determining your
23 sentence.

24 Mr. Denisoff, have you and your attorney discussed
25 how the advisory sentencing guidelines might apply to your

1 case?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Has the Government estimated what the
4 guidelines range is likely to be in this case?

5 MR. KEILTY: We have, Your Honor.

6 THE COURT: And does the defense have a different
7 estimate?

8 MR. GOLDSOBEL: Yes, Your Honor, because, as the
9 allocution will indicate, Mr. Denisoff's participation was a
10 very narrow period of time, and that should be the period
11 applicable to the guidelines calculation; but, at the same
12 time, we understand that the Government, based upon the
13 information, has given us a guidelines calculation in terms of
14 what the maximum is. I don't disagree with their guidelines
15 calculation, as far as the scope of the information; but in
16 terms of Mr. Denisoff's participation, I believe the
17 guidelines will have a much narrower or lower offense level.

18 THE COURT: Okay. Are you describing a dispute of
19 fact, or are you describing just a dispute about how the
20 guidelines should be applied in this case?

21 MR. GOLDSOBEL: The guidelines to be applied based
22 upon the narrow period of time in which Mr. Denisoff
23 participated in the conspiracy.

24 THE COURT: Okay.

25 MR. KEILTY: Your Honor, the defendant has not

1 stipulated to the guidelines, so he's free to argue at a later
2 date.

3 THE COURT: Understood. Understood.

4 So, Mr. Denisoff, what is important for you to
5 understand here is that the Government may have one estimate
6 of how the guidelines should apply, your attorney may have a
7 different estimate of how the guidelines should apply, but
8 both of those estimates -- either or both of those
9 estimates -- could be wrong. I will not be able to determine
10 the advisory guideline range for your case until after a
11 Presentence Report has been prepared and you and the
12 Government both have had an opportunity to read it and
13 challenge the reported facts and the application of the
14 guidelines that's put forward in that Presentence Report by
15 the probation officer.

16 Do you understand that?

17 THE DEFENDANT: I do.

18 THE COURT: So the sentence that I impose may be
19 different than any statistic your attorney may have given you.

20 Do you understand?

21 THE DEFENDANT: I do.

22 THE COURT: Even after determining the advisory
23 guideline range, I have the authority in some circumstances to
24 depart upward or downward from the advisory guideline range
25 and will look at other sentencing factors under 18 U.S. Code

1 3553(a) that could result in a sentence that is either greater
2 or lesser than the advisory guidelines sentence.

3 Do you understand?

4 THE DEFENDANT: I do.

5 THE COURT: As you sit here today, there is no
6 guarantee as to a particular guideline range. I will have to
7 determine that range, and I am not required to sentence you
8 within that range.

9 Do you understand?

10 THE DEFENDANT: I do Your Honor.

11 THE COURT: If the ultimate sentence I impose is
12 different than the one that you hope for or expect, you cannot
13 take your plea back.

14 Do you understand?

15 THE DEFENDANT: I do.

16 THE COURT: And you should understand that there is
17 no parole in the federal system, and if you are sentenced to a
18 prison term, you will not be released on parole.

19 Do you understand that?

20 THE DEFENDANT: I do.

21 THE COURT: There's also an appeal waiver. You are
22 waiving your right to appeal your sentence as part of your
23 plea today. Under some circumstances, you or the Government
24 might have the right to appeal any sentence that I impose, but
25 by entering into this plea agreement and entering a plea of

1 guilty, you are agreeing to waive or give up your right to
2 appeal or collaterally attack any part of your conviction or
3 sentence, except on the basis of ineffective assistance of
4 counsel, so long as I sentence you to 87 months or less in
5 jail.

6 Do you have any questions about the rights that you
7 are giving up, the punishments you may face, the agreement,
8 the nature of the charges, or anything else I have discussed
9 with you now?

10 THE DEFENDANT: I do not, Your Honor.

11 THE COURT: Okay. Are you ready to plead guilty,
12 Mr. Denisoff?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Mr. Goldsobel, do you know of any reason
15 why your client should not plead guilty?

16 MR. GOLDSOBEL: No, Your Honor.

17 THE COURT: Mr. Denisoff, what is your plea to the
18 charge in paragraph 1 of the information charging you with
19 conspiracy to commit wire fraud?

20 THE DEFENDANT: I plead guilty, Your Honor.

21 THE COURT: Are you making the plea of guilty
22 voluntarily and of your own free will?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Has anyone threatened or forced you to
25 plead guilty?

1 THE DEFENDANT: No.

2 THE COURT: Other than the agreement with the
3 Government, has anyone made any promise that caused you to
4 plead guilty?

5 THE DEFENDANT: No.

6 THE COURT: Has anyone made any promises to you --
7 promises -- as to what your sentence will be?

8 THE DEFENDANT: No, sir.

9 THE COURT: Okay. So in federal court, the Court is
10 not allowed to accept a plea of guilty unless the Court has a
11 basis to conclude that the defendant is, in fact, guilty of
12 the crime to which he or she is pleading guilty; therefore,
13 would you explain in your own words what makes you guilty of
14 conspiracy to commit wire fraud?

15 THE DEFENDANT: Yes, sir.

16 From approximately June 2015 to December 2015,
17 Plexious, a company in which I was an owner, purchased traffic
18 relating to digital advertising from a company that I
19 understood was controlled by Alex Zhukov. Zhukov contacted
20 Plexious and offered to provide us with digital traffic.
21 After contacting with -- contracting with Zhukov, I learned
22 that Zhukov was using computer servers to generate fictitious
23 traffic. Plexious paid for the fictitious traffic and sold
24 the traffic to other firms, which in turn had relationships
25 with advertising firms. I earned approximately \$3,000 from

1 doing business with Zhukov.

2 THE COURT: Does the Government have any questions
3 about the scope of the allocution?

4 MR. KEILTY: Your Honor, I would just proffer that
5 these communications between the defendant and his
6 co-conspirators used the interstate wires.

7 THE COURT: Do you understand what the Government
8 just said?

9 THE DEFENDANT: No, Your Honor.

10 THE COURT: So one of the elements of wire fraud is
11 that the interstate wires are used. That's one of the reasons
12 why this becomes a federal crime instead of a state crime, and
13 the Government basically said that this crime involved
14 interstate wire transmissions.

15 THE DEFENDANT: I understand.

16 THE COURT: It could be over fiberoptic cable or
17 telephone wires or otherwise.

18 THE DEFENDANT: I understand that.

19 THE COURT: Do you agree?

20 THE DEFENDANT: I do.

21 MR. KEILTY: Your Honor, I would also, if I may --

22 THE COURT: Sure.

23 MR. KEILTY: -- with respect to venue, the
24 Government would also, at trial, prove facts that certain
25 wires passed through the Eastern District of New York.

1 THE COURT: Okay.

2 Do you understand what the Government just said
3 about venue?

4 THE DEFENDANT: I do.

5 THE COURT: That's why we are here instead of in a
6 different federal district court.

7 THE DEFENDANT: Yes, sir.

8 THE COURT: Do you agree with the contention that
9 the wires involved this district?

10 MR. GOLDSOBEL: We don't have any reason to disagree
11 with the Government that at trial the Government would be able
12 to establish that fact.

13 THE COURT: Understood.

14 We talked already about victim notification. I take
15 it the Government will, before sentencing, inform any
16 appropriate victims of that proceeding.

17 MR. KEILTY: Yes, Your Honor.

18 THE COURT: Based on my observations of the
19 defendant and his demeanor in court, his answers to my
20 questions and the representations of his counsel, I find that
21 the defendant is fully competent and capable of entering an
22 informed plea, aware of the nature of the charges and the
23 consequences of the plea, and that the plea of guilty is
24 knowing and voluntary and supported by an independent basis in
25 fact containing the essential elements of the offense.

1 I therefore accept the plea of guilty to the charge
2 in paragraph 1 of the information.

3 Mr. Denisoff, a written Presentence Report will be
4 prepared by the probation officer to assist the Court at
5 sentencing. The Presentence Report is a very important
6 document and can take the Probation Department some time to
7 prepare. There may be what feels like a gap to you in the
8 lead-up to your sentencing where nothing seems to be
9 happening. That may be just the case that the Probation
10 Department is working very hard on the PSR, which is a long
11 and complex document.

12 The Probation Department is an arm of the court --
13 they do not work for the defense counsel or the Government;
14 they work for the Court -- and the aim of the Presentence
15 Report is to assist the Court in sentencing. You will be
16 asked to give information for the report; and, if you wish,
17 you can have your attorney present for any interview with the
18 probation officer.

19 Mr. Goldsobel, do you wish to be present for any
20 interview?

21 MR. GOLDSOBEL: Yes.

22 THE COURT: Okay. I understand we may be talking
23 about something that happens relatively far off in the future.

24 Mr. Denisoff, you and your attorney will have an
25 opportunity to review the Presentence Report and to file any

1 objections to the report before sentencing; and you and your
2 counsel will have the opportunity to speak at the sentencing
3 hearing. The date for sentencing is June 25th, 2020, at
4 10:00 a.m.

5 Do you understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Mr. Denisoff, just a word about bail.

8 So bail is continued. You are required to appear
9 for sentencing here in Courtroom 6G, 225 Cadman Plaza East in
10 Brooklyn, New York. The failure to appear at the scheduled
11 time and place is a criminal offense for which you could be
12 sentenced to imprisonment.

13 In addition, all conditions on which you have been
14 released up until now, absent any application from the
15 Government, shall continue to apply; and the penalties for
16 violating those conditions, you should know, shall be severe.

17 MR. GOLDSOBEL: Your Honor, this is probably a good
18 time to give the Court a heads-up that I've been conferring
19 with the Government regarding one of the conditions of
20 release, which is a drug-testing condition that was imposed
21 relating to a report of prior marijuana use before
22 Mr. Denisoff's arrest, and that's been requiring daily phone
23 calls. He's had testing; he's tested negative every time.
24 Pretrial in Los Angeles does not oppose removal of the
25 condition. I understand the Government doesn't oppose it

1 either. In light of communicating with Pretrial here, we are
2 going to be submitting a letter to the Court tomorrow for
3 removal of that condition.

4 THE COURT: Sounds good.

5 MR. GOLDSOBEL: Thank you.

6 THE COURT: Anything else from the Government?

7 MR. KEILTY: No, Your Honor.

8 Thank you.

9 THE COURT: Anything else from the defense?

10 MR. GOLDSOBEL: No, Your Honor.

11 THE COURT: Okay. Then we're adjourned.

12 Thank you, everyone.

13 (Matter concluded.)

14

15 * * * * *

16

17 I certify that the foregoing is a correct transcript from the
18 record of proceedings in the above-entitled matter.

19

/s/ Denise Parisi

December 7, 2020

20 _____
DENISE PARISI

DATE

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